



Policies and Procedures

Subject: Right to Request Privacy Protection for PHI

Policy Number: HIPAA 4.10

Effective Date: 1/11/18

Entity Responsible: Division of General Counsel

Revision Date:

1. Purpose:

To provide instruction and guidance to the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) and the Regional Mental Health Institutes (RMHIs) on an individual service recipient's right to request privacy protection for the protected health information (PHI) as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

2. Policy:

- 2.1: The TDMHSAS and the RMHIs must permit an individual to request that the TDMHSAS or the RMHI restrict uses or disclosures of PHI about the individual to carry out treatment, payment, or health care operations.
- 2.2: If the TDMHSAS and the RMHI agrees to a restriction as requested by an individual, the TDMHSAS and the RMHI may not use or disclosure the PHI in violation of such restriction, unless the individual who requested the information is in need of emergency treatment and the restricted PHI is needed to provide that emergency treatment, and such information is provided to a health care provider, and the TDMHSAS and the RMHI request that the health care provider not further use or disclose the information.
- 2.3: The TDMHSAS and the RMHI must agree to the request of an individual to restrict disclosure of PHI about the individual to a health plan in the disclosure is for the purpose of carrying out payment or health care operations and is not required by law; and the PHI pertains solely to a health care item or service for

which the individual, or another person (other than the health plan), has paid TDMHSAS and the RMHI in full.

- 2.4: The TDMHSAS and the RMHI may terminate a restriction if (1) the individual agrees to or requests the termination in writing, (2) the individual orally agrees to the termination and the oral agreement is documented; or (3) the TDMHSAS or the RMHI informs the individual that it is terminating its agreement to a restriction so long as such restriction does not fall under 2.3 and such restriction is only effective with respect to PHI created or received after it has informed the individual.
- 2.5: The TDMHSAS and the RMHI must permit individuals to request and must accommodate reasonable requests by individuals to receive communications of PHI from the TDMHSAS or the RMHI by alternative means or alternative locations. The individual must make their request to receive communications about PHI from the TDMHSAS or the RMHI in writing, and the individual must provide an alternative address or other method of contact.

3. Procedure/ Responsibility:

- 3.1: The RMHI Privacy Officer must maintain written copies of any individual's request for restriction of uses and disclosures of PHI, the individual's agreement to the termination of the restriction, or the TDMHSAS and the RMHI's termination of the restriction. This documentation must be retained for six (6) years from which the date of its creation or the date when it was last in effect, whichever is later.

4. Other Considerations:

- 4.1: Authority:

§ 45 CFR 164.522

Approved:

 Marie Williams

Commissioner

 1-11-18

Date